

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/569,490 Confirmation No.: 3451
First Named Inventor : Yoichi KOWATARI
Filed : May 16, 2008
TC/A.U. : 3745
Examiner : Michael S. Leslie
Docket No. : 080306.57395US
Customer No. : 23911
Title : Engine Lag Down Suppressing Device of Construction Machinery

PETITION TO RESET PERIOD FOR REPLY DUE TO NON-RECEIPT OF OFFICE ACTION

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants petition to reset the period for reply to the Office Action having an alleged mail date of August 18, 2011 due to non-receipt of said Office Action or, alternatively, to reissue said Office Action with a new mail date.

It is respectfully requested that the period for reply to the Office Action, which bears a mail date of August 18, 2011, be reset. Resetting of the period for reply is appropriate because this Office Action was never received by Crowell & Moring LLP, whose correspondence address is the mailing address of record in this application.

Attached to this petition is a Declaration by Ms. Tanya Che, manager of the Docketing Department of Crowell & Moring LLP. The attached petition includes exhibits that contain confidential information not relevant to this application, and accordingly the confidential information has been redacted.

The undersigned's personal knowledge of the relevant facts is as follows:

1. On December 15, 2011, the undersigned's assistant, Ms. Nancy Robins, was reviewing the undersigned's docket, which included a status check due on December 15, 2011, in the above-identified application.

2. Ms. Robins accessed the USPTO's PAIR system to determine the status of the above-identified application. Ms. Robins discovered that the PAIR system indicated that an Office Action had been mailed on August 18, 2011.

3. Ms. Robins was informed by the Crowell & Moring Docketing Department that this Office Action had not been received and entered into Crowell & Moring's docketing software.

4. The undersigned initiated a search of the file jacket, as well as the office in general, to determine whether said Office Action had ever been received. The undersigned determined that it had not been.

5. Ms. Che informed the undersigned of the facts set forth in the attached Declaration. Specifically, Ms. Che informed the undersigned that if the Office Action had been received by Crowell & Moring on or after August 18, 2011, it would have been entered in the docketing system. For example, if the Office Action had been received on August 18, 2011, it would have been entered on August 18 or August 19, 2011. Ms. Che provided the undersigned with a report that listed all matters docketed on August 18, August 19 or August 22, 2011, and the above-identified matter was not listed as having a docketed action. Further, there is no record of receipt and docket entry of the Office Action on any date following August 18, 2011. Ms. Che provided an electronic docket printout

for the above-identified application showing that no entry for the August 18, 2011 Office Action was made, which indicates that the Office Action was not received. Further, Ms. Che provided an electronic master docket report showing all replies docketed for a date of three months from the August 18, 2011 mail date of the non-received Office Action, i.e., the master docket report for November 18, 2011, which again shows that no Office Action was received.

Based on the forgoing, it is the belief of the undersigned that this Office Action was not received by Crowell & Moring. Accordingly, the undersigned respectfully requests that the outstanding Office Action be reissued with a new mail date, so that the response time period will run from the new mail date.

If there are any questions regarding this petition or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and

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please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket # 080306.57395US).

Respectfully submitted,

January 5, 2012



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